

## **REMARKS/ARGUMENTS**

### **Status of Claims**

Claims 1-18 are pending.

### **Rejection of claims 1-18**

The Examiner provisionally rejected claims 1-18 on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-16 of co-pending application Serial No. 10/658,545.

According to MPEP § 1490.V.D, if the obviousness-type double patenting in both applications are the only rejections remaining in those applications, the Examiner should then withdraw the obviousness-type double patenting rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer.

Also, where there are two or more co-pending applications, if both applications are filed on the same day, the Examiner should determine which application claims the base invention and which application claims the improvement. The obviousness-type double patenting rejection in the base application can be withdrawn without a terminal disclaimer.

Accordingly, since in the present application, only the obviousness-type double patenting rejection remains, the Examiner should withdraw the double patenting rejection and permit the application to issue without the need of a terminal disclaimer.

Additionally, since the present application was filed on the same day as co-pending application Serial No. 10/658,545, Applicant respectfully requests the Examiner to withdraw the double patenting in the present application because the present application comprises the base invention and the co-pending application comprises an improvement.

Accordingly, Applicant respectfully requests the Examiner to withdraw the rejection of claims 1-18 and allow this application.

### **Conclusion**

In view of the above, it is believed that the above-identified application is in condition for allowance, and notice to that effect is respectfully requested. Should the Examiner have any questions, the Examiner is encouraged to contact the undersigned at the telephone number indicated below.

Respectfully submitted,

Date: October 5, 2007



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